

**THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

WRIT PETITION NO.19703 OF 2007

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Dated: 01-10-2007

Between:

M/s.J.Mohammed Yahiya,
H.No.11-149, Goodekali Street,
Kurnool District.

...Petitioner

and

1.The Commercial Tax Officer-II,
Adoni, Kurnool District and another.

...Respondents

**THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

WRIT PETITION NO.19703 OF 2007

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Dated: 01-09-2007

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Order: (Per The Hon'ble Sri Justice Bilal Nazki)

After the assessment order was passed on 13-03-2007, the petitioner filed a review before the first respondent- Commercial Tax Officer requesting him to reconsider as he wanted to produce some 'C' forms, which had not been produced earlier. The representation has not been decided

and the learned Government Pleader for Commercial Taxes submits that the representation would amount to review and the first respondent-Commercial Tax Officer has no power to review his orders.

The order of the first respondent-Commercial Tax Officer is challenged on various grounds including the ground that the petitioner had filed his objections in response to the show cause notice dated 22-12-2006, but those objections were not considered by the first respondent-Commercial Tax Officer before passing the impugned order of assessment dated 13-03-2007. On the first page of the assessment order under serial 2, the first respondent-Commercial Tax Officer recorded as under:

‘Your failure to respond to the notice issued on form CST 305A on 13-MAR-2007.’

This clearly shows that no objections were taken into consideration, as according to the first respondent-Commercial Tax Officer, no objections had been filed. But, in the counter-affidavit, it is admitted that objections had been filed before the assessment order was passed. The learned Government Pleader also tried to explain that objections were taken into consideration as in the assessment order itself, the first respondent-Commercial Tax Officer remarked that,

‘The dealer has filed some ‘C’ forms for the year 2006-07 (upto Sep’06) and the remaining Statutory Forms was not filed by the dealer. Hence, tax proposed @ 8%.’

It shows that only certain forms, which had been filed earlier, were taken into consideration, but not the objections.

Therefore, for this reason, we allow the Writ Petition, set aside the assessment order dated 13-03-2007 passed by the first respondent-Commercial Tax Officer and remand the matter to the first respondent-Commercial Tax Officer, who may pass appropriate orders after hearing the petitioner and after allowing him to produce the documents, if any. No costs.

(Bilal Nazki, J)

Dated 1st October, 2007

(Ramesh Ranganathan, J)

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